

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

914U0380

SENATE BILL NO. 35

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to allow the prosecution to appeal from certain judgments
2 of acquittal.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-32-4 be amended to read as follows:

5 23A-32-4. An appeal by a prosecuting attorney in a criminal case may be taken to the
6 Supreme Court, as a matter of right, from a judgment, or order of a circuit court setting aside
7 a verdict and entering judgment of acquittal, sustaining a motion to dismiss an indictment or
8 information on statutory grounds or otherwise, or granting a motion for arrest of judgment or
9 a motion for a new trial, or an order finding mitigating circumstances to exist in deviating from
10 the mandatory sentencing provisions of § 22-42-2; ~~but such appeals shall~~ However, any appeal
11 does not bar or preclude another prosecution of the defendant for the same offense, ~~except~~
12 ~~where~~ unless the dismissal is affirmed by the Supreme Court.

